COUNCIL POLICY

SUBJECT: Streetlight Sensor Data Policy
POLICY NO: XXX-XX
EFFECTIVE DATE: January 1, 2020

1. **PURPOSE:**

   1.1. This policy creates guidelines for the *Source Data*, made up of *Audio*, *Video* and *Event Data*, derived from the City's *Streetlight Sensors* and owned wholly by the City. It includes overarching direction on the proper use, access and dissemination of all *Source Data*. It provides specific usage guidelines for *Event Data* and provides direction to the Mayor and their designee on the process for informing City Council of plans to access *Audio* and/or *Video*. Individual *Data Use Policy(s)* for use cases involving *Audio* and/or *Video* will further elaborate on data use (i.e., access, protection, storage, dissemination) for said use case.

2. **BACKGROUND:**

   2.1. On December 13, 2016, City Council approved an agreement with General Electric (GE) to upgrade City lighting infrastructure with streetlights from GE. The City's outdoor lighting inventory includes approximately 68,000 fixtures, comprising streetlights, parking lot lighting and park lighting. The Outdoor Lighting Upgrade and Smart Sensor Installation Project involved two elements: the retrofit of approximately 8,600 inefficient lighting fixtures to adaptively controlled light-emitting diode (LED) fixtures, and the installation of 4,200 City IQ sensors or *Streetlight Sensors*.

   2.2. The principal goal of the City in deploying *Streetlight Sensors* is to better understand the urban environment as it relates to mobility, sustainability and safety and to use these insights to provide improved services to San Diego residents and visitors.

3. **DEFINITIONS:**

   3.1. *Annual Data Use Report*: A written report concerning a specific application or use of the *Source Data* that includes all of the following:

   3.1.1. A description of how the *Source Data* was used, including the type and quantity of data gathered or analyzed by the *Streetlight Sensors*;

   3.1.2. Whether and how often the *Source Data* was shared with outside entities, the name of any recipient entity, the type(s) of data disclosed, and the justification for the disclosure(s);

   3.1.3. Where applicable, a breakdown of where the *Streetlight Sensors* that provided *Source Data* used were deployed geographically, by each Council District in the relevant year;

   3.1.4. A summary of community complaints or concerns about the *Streetlight Sensors* or *Source Data*;

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3.1.5. The results of any deviations or potential deviations of the *Data Use Policy*, and any actions taken in response unless the release of such information is prohibited by law, including but not limited to confidential personnel file information;

3.1.6. Information about any data breaches or other unauthorized access to the *Source Data*, including information about the scope of the breach and the actions taken in response;

3.1.7. Statistics and information about public records act requests regarding the relevant use of the *Source Data*, including response rates;

3.1.8. Total annual costs for accessing *Source Data*, including personnel and other ongoing costs, and what source of funding will fund the technology in the coming year; and

3.1.9. Any requested modifications to the *Data Use Policy* and a detailed basis for the request.

3.2. *Application Programming Interface (API)*: A set of subroutine definitions, communication protocols, and tools that serve as a software intermediary and allow two applications to share information back and forth.

3.3. *Application Programming Interface (API) Key*: A code passed by computer programs calling an *Application Programming Interface* to identify the calling program, its developer, or its user to the website.

3.4. *Audio*: Real-time or recorded audio *Source Data*. *Audio* data is a subset of *Source Data*.

3.5. *Data Use Policy*: A publicly-released policy for the Mayor and their designee's use of the *Video* and/or *Audio* that specifies the following at a minimum:

3.5.1. Purpose: The specific purpose(s) for the *Video* and/or *Audio*.

3.5.2. Authorized Use: The uses that are authorized, the rules and processes required before that use, and the uses that are prohibited.

3.5.3. Data Access: The individuals who can access or use the collected information, and the rules and processes required before access or use of the information.

3.5.4. Data Protection: The safeguards that protect information from unauthorized access, including, but not limited to, encryption, access-control, and access-oversight mechanisms as provided in the City of San Diego Department of Information Technology Information Security Standards and Guidelines Policy.

3.5.5. Data Retention: The time, if any, for which *Video* and/or *Audio* will be routinely retained, the reason that retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period lapses, and the conditions that must be met to retain information beyond that period.

3.5.6. Training: The training, if any, required for any individual authorized to use the *Video* and/or *Audio*, including whether there are training materials.

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   3.5.7. Oversight: The mechanisms to ensure that the *Data Use Policy* is followed, including, but not limited to, identifying personnel assigned to ensure compliance with the policy, internal recordkeeping of the access to and/or use of the *Video* and/or *Audio*, technical measures to monitor for misuse, any independent person or entity with oversight authority, and the sanctions for violations of the policy.

 3.6. *Event Data*: As referenced here, anonymized alpha-numeric data that is created by processing *Video, Audio* or other information generated by *Streetlight Sensors*. Specific examples include information on parking activity, vehicle counts and speeds, pedestrian counts, bicycle counts, temperature, humidity, and pressure. *Event Data* is devoid of personally identifiable information and/or biometric information. For clarity, *Event Data* is a subset of *Source Data*.

 3.7. *Evidence*: Every type of proof legally presented at a trial which is intended to convince the judge and/or jury of alleged facts material to the case.

 3.8. *Exigent Circumstances*: Circumstances that would cause a reasonable person to believe that immediate actions are necessary to prevent physical harm, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.

 3.9. *JavaScript Object Notation (JSON)*: An open-standard file format that uses human-readable text to transmit data objects consisting of attribute value pairs and array data types or any other serializable value. As referenced here, *JSON* applies to *Event Data* use and access.

 3.10. *Large-scale Event*: An event (e.g., community events, music and arts festivals, sporting events, public protests, processions, exhibitions and other displays that attract large crowds) which requires significant planning and preparation to ensure public safety and mitigate associated risks. *Large-scale Events* may provide a reasonable basis to anticipate that *Exigent Circumstances* may occur.

 3.11. *Private Sector Partner*: Entities involved in the operations or maintenance of the *Streetlight Sensors* and/or the *Source Data*, whether through a direct contractual relationship with the City or through a subcontract with an entity with a direct contractual relationship with the City.

 3.12. *Pan, Tilt, and Zoom*: Manipulating a camera to view areas outside the original image frame or measurably increase the resolution of the images rendered.

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3.13. *Source Data*: *Audio*, *Video*, *Event Data* and all other information generated by *Streetlight Sensors* and subsequently retained onboard the streetlight, cloud services associated with the management of the *Streetlight Sensors,* or retained by the City. Per the existing contract with GE Current, the City owns all rights to the *Source Data*.

3.14. *Streetlight Sensors*: CityIQ sensor nodes, manufactured by GE Current, which have been installed on City streetlights to capture *Source Data*.

3.15. *Third-Party*: Any public, private or non-profit organization or individual which does not fall under the definition of *Private Sector Partner*.

3.16. *Video*: Real-time or recorded video *Source Data*, including images created from frames of video footage. *Video* data is a subset of *Source Data*.

4. **USE OF *EVENT DATA***

4.1. *Event Data* will be publicly available in accordance with the City's Open Data Policy. Per the City's Open Data Policy, the City is committed to making its data publicly available. The City recognizes that making data available in this manner will promote civic engagement, improve service delivery, allow for more effective communication with the public, and increase opportunities for economic development. The Mayor, and his designee, will work in coordination with the Office of the City Attorney to ensure public access to *Event Data* is balanced with privacy protections for the City, its residents and visitors.

4.2. Until the *Event Data* is made publicly available in accordance with the City's Open Data Policy, *Event Data* will be made available to the public with an open *API Key* and log in credentials available via the City's website. The credentials will be changed regularly. The data is provided in *JSON* format. Members of the public may request access to a custom *API Key* from the City with credentials that don't change regularly that they can use to access the *Event Data*. *Event Data* requested and used by members of the public is to be used for purposes of beneficial research and/or civic innovation. Any user conducting unauthorized, negligent, or malicious use of *Event Data* will have access revoked immediately.

4.3. The Mayor and their designee will support a publicly-accessible data dashboard, available through the City's website, providing *Event Data* descriptive analytics.

5. **USE OF *VIDEO* AND/OR *AUDIO*:**

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5.1.   The Mayor and their designee shall only authorize the use of the *Video* and/or *Audio* after making a determination that the benefits to the community of the proposed use case outweigh the costs and that the proposal will safeguard civil liberties and civil rights (e.g., criminal predicate).

5.2.   For disclosure of existing *Video* and/or *Audio* uses, the Mayor and their designee will submit to City Council a *Data Use Policy* within sixty (60) days of the approval of this policy. For disclosure of future *Video* and/or *Audio* uses, the Mayor and their designee will follow a *Data Use Policy*.

5.3.   The Mayor and their designee may provide access to *Video* and/or *Audio* to the San Diego Police Department for the purpose of conducting criminal investigations. The Mayor and their designee will require the following when providing access to *Video* and/or *Audio* to the San Diego Police Department:

    5.3.1.   On behalf of the Mayor and their designee, the San Diego Police Department will submit to City Council a *Data Use Policy* for their use of *Video* and/or *Audio* pursuant to Sections 5.2.

    5.3.2.   On behalf of the Mayor and their designee, the San Diego Police Department will submit to City Council an *Annual Data Use Report* for their use of *Video* and/or *Audio* pursuant to Section 6.1.2.

    5.3.3.   The San Diego Police Department will follow the overarching guidance on *Source Data* use outlined in Section 7 including:

        5.3.3.1.   Prohibition of using *Sensor Data* in a discriminatory manner.

        5.3.3.2.   Prohibition of using *Sensor Data* to target individuals based on protected characteristics including skin color, race, ethnicity, national origin, pregnancy, citizenship, immigration status, religion, disability, gender, age or sexual orientation.

        5.3.3.3.   Prohibition of using *Sensor Data* to harass or intimidate any individual or group.

        5.3.3.4.   Prohibition of sharing *Sensor Data* with federal agencies for immigration enforcement purposes, consistent with state law.

        5.3.3.5.   Prohibition of the sale of *Sensor Data* to any *Third-Party*.

        5.3.3.6.   Prohibition of equipping *Streetlight Sensors* with Pan-Tilt-Zoon functionality, video magnification, facial recognition or facial surveillance technology and/or automatic license-plate readers.

        5.3.3.7.   Prohibition of integration *Streetlight Sensors* with any technology or software that would enable the functionality listed in 5.3.6.6.

5.4.   The Mayor and their designee may provide temporary access to the San Diego Police Department to use *Video* and/or *Audio* in a manner not expressly disclosed in a *Data Use*

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Policy in two types of circumstances without following the provisions of Sections 5.3: (A) *Exigent Circumstances*, and (B) a *Large-scale Event*.

5.5. Any use of the *Video* and/or *Audio* temporarily in *Exigent Circumstances* or *Large-scale Event* shall cease within seven days, or when the *Exigent Circumstances* or *Large-scale Event* ends, unless a *Data Use Policy* for the use is disclosed to City Council pursuant to Sections 5.3.

6. <u>**OVERSIGHT**</u>

6.1. On September 1 of each year, or at the next closest regularly scheduled City Council meeting, the Mayor and their designee must submit an *Annual Data Use Report* to Council for review for all uses of any *Source Data*. The City Council may grant a single extension of up to sixty (60) days to comply with this provision.

    6.1.1. The Mayor and their designee are responsible for submitting a single *Annual Data Use Report* to encompass all *Event Data* usage. In addition to requirements outlined in Section 3.1, the *Annual Data Use Report* on *Event Data* usage will also include details on all custom *API Key* requests received and approved, including the purposes for all requests and the frequency of data access from the approved custom *API Keys*.

    6.1.2. The Mayor and their designee are responsible for submitting the *Annual Data Use Report(s)* for the use of *Video* and/or *Audio*.

6.2. Based on information provided in the *Annual Data Use Report(s)* for *Video* and/or *Audio* use cases, the City Council shall determine whether the benefits to City and the community where the technology is deployed outweigh the costs and whether reasonable safeguards exist to address reasonable concerns regarding privacy, civil liberties, and civil rights. If the benefits or reasonably-anticipated benefits are determined that they do not outweigh the costs or civil liberties or civil rights and/or are not reasonably safeguarded, the City Council shall consider:

    6.2.1. Requesting that the specific use case included in the *Annual Data Use Report* cease;

    6.2.2. Requesting modifications to the *Data Use Policy* that are designed to address the City Council's concerns; and/or

    6.2.3. Requesting a report-back from the Mayor and their designee regarding steps taken to address the City Council's concerns.

6.3. Notwithstanding any other provision in this policy, *Annual Data Use Reports* will be available to the City Auditor to via existing laws, rules and regulations, and to the public via the California Public Records Act.

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6.4.   Notwithstanding activity associated with standard maintenance of the current *Streetlight Sensor* system, details about future *Streetlight Sensor* deployments, including potential sensor locations, will be disclosed to City Council. Additionally, any future deployments will be preceded by community outreach and input into potential locations.

7.   <u>**OVERARCHING GUIDANCE ON *SOURCE DATA* USE**</u>

7.1.   All *Source Data* will be governed by the following overarching guidance:

     7.1.1.   <u>Data Access</u>:

         7.1.1.1.   Access to *Source Data* shall be managed by the Mayor and their designee.

         7.1.1.2.   The Mayor and their designee will create and maintain a process narrative on access to *Event Data* by other City Departments.

         7.1.1.3.   As it relates to specific use cases, details on department staff who can access or use the *Video* and/or *Audio*, and the rules and processes required before access or use of the information, shall be included in the individual *Data Use Policy* for that use case.

     7.1.2.   <u>Data Use</u>:

         7.1.2.1.   The *Source Data* shall not be used in a discriminatory manner and shall not target protected individual characteristics including, age, skin color, race, ethnicity, national origin, pregnancy, citizenship, immigration status, religion, disability, gender or sexual orientation.

         7.1.2.2.   The *Source Data* shall not be used to harass or intimidate any individual or group.

         7.1.2.3.   Consistent with state law, specifically 2017 SB 54 (De Leon), *Source Data* shall not be used for immigration enforcement purposes.

     7.1.3.   <u>*Third-Party* Data-Sharing and/or Integration</u>:

         7.1.3.1.   Neither the City nor its *Private Sector Partners* may sell *Source Data* to any *Third-Party*.

         7.1.3.2.   *Private Sector Partners* may not provide *Source Data* to any *Third-Party* unless explicitly instructed to do so by the City.

         7.1.3.3.   *Streetlight Sensors* shall not be equipped with Pan-Tilt-Zoom functionality, video magnification, facial recognition or facial surveillance technology, and/or automatic license-plate readers. The Mayor and their designee shall not integrate *Streetlight Sensors* with any technology or software that would enable this functionality.

     7.1.4.   <u>Public Access</u>:

         7.1.4.1.   Public access to or use of *Event Data* is outlined in Section 4.

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           7.1.4.2.   Public access to or use of *Video* and *Audio* data is not permitted, unless otherwise specified in state law.

    7.1.5.   Data Retention:

           7.1.5.1.   *Streetlight sensors* will automatically record over (i.e., erase) all *Video* and/or *Audio* after five (5) days, continuously erasing *Video* and/or *Audio* data on an ongoing basis. *Video* and/or *Audio* may be downloaded from the *Streetlight Sensors* during the five (5) day period and retained. Details on retention of downloaded *Video* and/or *Audio* will be outlined in a disclosed *Data Use Policy*.

7.2.   Any deviation from this policy's overarching guidance must be explicitly addressed in a *Data Use Policy* disclosed to City Council pursuant to Section 5. Deviations from overarching guidance should only be considered if reasonable safeguards exist to address reasonable concerns regarding privacy, civil liberties, and civil rights impacted by the deviation from the overarching guidance.